

REMARKS

Claims 1-3, 5-7, 9-13, 15-17, 19, 20, 23, 24, 27 and 28 are pending and have been rejected. Claims 6, 7, 12, 13, 27 and 28 have been amended. Applicant requests entry of the amendments because they only clarify the claims and do not require any further search. Therefore, claims 1-3, 5-7, 9-13, 15-17, 19, 20, 23, 24, 27 and 28 are presented for further prosecution. Favorable reconsideration of the application is requested in light of the foregoing amendments and the remarks that follow.

§112 Rejection of claims 6, 7, 12 and 13

Claims 6, 7, 12 and 13 stand rejected under 35 U.S.C. §112, second paragraph. The Examiner alleges that there is no antecedent basis for the limitation "said first and second angles". This phrase has been amended to "said first and second non-zero acute angles", which is clearly provided antecedent basis in claim 1. The Examiner also alleges that it is unclear which angle applicant considers as the first and/or second angle, and the claim language is indefinite because it is not clear if each angle has an angle between 1 and 89 degrees or if a combination of the two angles add up to an angle between 1 and 89 degrees. Applicant has added the word each to each of the claims to clarify that the first and second non-zero acute angles each are within the range of 1 and 89 or 40 and 50 degrees.

Withdrawal of the rejection is respectfully requested.

§102(b) Rejection of claims 1, 9, 19, 20, 23, 24 and 27

Claims 1, 9, 19, 20, 23, 24 and 27 stand rejected under 35 U.S.C. §102(b) as being anticipated by Hardwick. Hardwick does not show every limitation of present claims 1, 9, 19, 20, 23, 24 and 27.

The Examiner alleges that Hardwick shows a plurality of fenders 15 and 16 on a trailer or tow dolly (figure 3) which shows a top portion of the fender having opposed inner and outer edges, an outer wall extending downward from the outer edge of the top portion, wherein the inner edge of the fender (at the inner portion of the wheel) shows a clearance increasing portion (angled portion of the fender) depending downward at a non-zero acute angle (figure 2) to an inner wall (figure 1) which depends downward at a non-zero acute angle wherein the angle formed by the top portion and the clearance portion and the angle formed by the clearance portion and the inner wall add up to approximately 90 degrees which has the bottom edges of the top portion, clearance portion and inner wall lying in a common plane (figures 1-3).

Applicant disagrees with the Examiner and hereby traverses this rejection. First of all, claim 1 recites "A fender having a longitudinal midline, and a light housing mounted to said fender offset from said midline." Hardwick does not show, teach or suggest any type of light housing, let alone a light housing offset from a fender midline. Accordingly, Hardwick must fail as a §102 reference.

Moreover, Hardwick does not show "an inner wall depending downwardly from said clearance increasing portion at a second non-zero acute angle". As shown in Fig. 2 of Hardwick (and circled in Fig. 2, shown below), there

is nothing depending downwardly from the alleged clearance increasing portion. The Examiner alleges that Fig. 1 of Hardwick (also shown below) shows the alleged inner wall. However, applicant submits that what the Examiner alleges is the inner wall in Fig. 1 is the alleged clearance increasing portion. Otherwise, there would be a line in Fig. 1 above element 11 where the alleged clearance increasing portion and alleged inner side wall meet at an angle. Taking Figs. 1 and 2 together, Hardwick clearly does not show an inner wall.

Accordingly, it is believed that claim 1 and all claims dependent thereon distinguish over Hardwick.

Claim 27 depends from claim 1 and is therefore patentable for all the reasons set forth above with respect to claim 1. However, claim 27 further distinguishes over Hardwick. Claim 27 recites "wherein said clearance increasing portion, said inner wall and said top portion each have a bottom edge, and wherein said entire bottom edge of said clearance increasing portion, said entire bottom edge of said inner wall and said entire bottom edge of said top portion all lie in a common plane." First of all, as discussed above, Hardwick does not have an inner wall, therefore, claim 27 distinguishes over Hardwick. However, claim 27 further distinguishes over Hardwick, because, as shown in Fig. 2 below, the entire bottom edge of neither the alleged clearance increasing portion nor the entire bottom edge of the top portion lie in a common plane. Applicant's FIG. 8 is presented below and clearly demonstrates the limitations of claim 27. Plane P illustrates the common plane that the bottom edges of the clearance increasing portion, top portion and inner wall lie in.

Claim 27 further distinguishes over Hardwick and is therefore patentable. Withdrawal of the rejection is respectfully requested.

Accordingly, it is believed that the wording of claims 1, 9, 19, 20, 24 and 27 distinguish over Hardwick and overcome this Section 102(b) rejection, and reconsideration and allowance of claims 1, 9, 19, 20, 24 and 27 are respectfully solicited.

§103(a) Rejection of Claims 2, 3, 5-7, 10-13, 15-17 and 28

Claims 2, 3, 5-7, 10-13 and 15-17 stand rejected under 35 U.S.C. §103(a) as being obvious in view of Hardwick and Nyman. The Examiner alleges Hardwick shows a plurality of longitudinally curve shaped fenders having a top portion which has a plurality of planer sections (figure 1) and a substantially flat middle section with curved end sections (figure 2) wherein an outer wall extends downward from an outer edge of the top portion of the fender and has at an opposed inner edge a clearance increasing portion depending downward at an acute angle between the range of 1 to 89 degrees to an inner wall which depends downward wherein the angles formed by the top portion, the clearance portion and the inner wall add up to approximately 90 degrees and their bottom edges lie in a common plane and figure 1 shows a portion of the clearance increasing portion between the wheels 13 riding on top of the walking beam 11 that has a concave shape but lacked the light housing attached to the top portion and mounted offset a midline of the fender.

The Examiner further alleges that Nyman '556 shows a plurality of fenders 10, 11 on a trailer or tow dolly having a light housing 13 mounted to the fender offset from a midline of the fender (figure 2 upper wheel shows the light fixture approximately center with the wheel and figure 3 shows the wheel off-centered with respect to the fender), the external surface of the fender (figure 1) has a shape wherein the light housing comprises a base portion that conforms to at least a portion of the shape of the fender (figures 1 and 2), the light housing having a raised portion adapted to receive a light fixture.

As a result, the Examiner asserts that it would have been obvious to have modified the fender of Hardwick with a light housing such as shown in Nyman to provide the trailer dolly with tail lights for added safety and in order to utilize the trailer on public roads to comply with regulations of mounting brake lights to the rear of a trailer as is well known in the art.

Claims 2, 3, 5-7, 10-13, 15-17 and 28 depend from claim 1 and are therefore patentable for the reasons stated above. Namely, Hardwick and Nyman, neither individually nor in combination, disclose "an inner wall depending downwardly from said clearance increasing portion at a second non-zero acute angle." Additionally, claims 2, 3, 5-7, 10-13, 15-17 and 28 further distinguish over the cited references because no motivation is provided for combining Nyman with Hardwick. The deficiencies of Hardwick are set forth above. Hardwick clearly does not anticipate claim 1. Nyman does not make up for the deficiencies of Hardwick. The Examiner only chose Nyman because it shows a trailer fender having a light housing thereon. Nyman has nothing to do with a fender having a clearance increasing

portion. A skilled artisan would not look to Nyman to provide a fender having an offset light housing, let alone a fender as presently claimed.

Claim 28 recites:

A fender having a longitudinal midline, said fender comprising

- a) a light housing mounted to said fender offset from said midline,
- b) a top portion having opposed inner and outer edges, wherein said top portion is curved radially downwardly in a longitudinal direction
- c) a clearance increasing portion having a bottom edge, said clearance increasing portion depending downwardly from said inner edge of said top portion at a non-zero acute angle,
- d) an inner wall having a bottom edge, said inner wall depending downwardly from said clearance increasing portion at a non-zero acute angle, wherein said top portion and said inner wall are oriented substantially perpendicularly, and wherein said angle formed by said top portion and said clearance increasing portion, and the angle formed by said clearance increasing portion and said inner wall add up to approximately 90°, and
- e) an outer wall having a bottom edge, said outer wall depending downwardly from said outer edge of said top portion, wherein said entire bottom edge of said clearance increasing portion, said entire bottom edge of said inner wall, said entire bottom edge of said top portion and said entire bottom edge of said outer wall all lie in a common plane.

As discussed above, Hardwick does not show, teach or suggest a fender having an inner wall or a fender where the bottom edges of the clearance increasing portion, inner wall and top portion lie in a common plane. Claim 28 adds the limitation "wherein...said entire bottom edge of said outer wall" lies in the same plane as the bottom edges of the clearance increasing portion, inner wall and top

portion. As shown above in Fig. 1, The entire bottom edge of the alleged outer wall of Hardwick does not lie in a common plane with the clearance increasing portion, inner wall and top portion. Nyman does not make up for this deficiency. Accordingly, for this additional reason claim 28 distinguishes over the cited references.

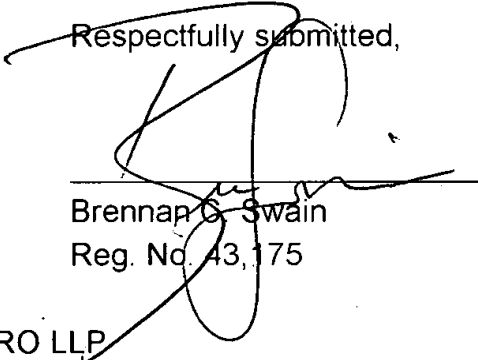
Accordingly, it is believed that claims 2, 3, 5-7, 10-13, 15-17 and 28 distinguish over Hardwick and Nyman and overcome this Section 103(a) rejection, and reconsideration and allowance of claims 2, 3, 5-7, 10-13, 15-17 and 28 are respectfully solicited.

CONCLUDING REMARKS

In view of the amendments to the claims and the foregoing remarks, it is believed that all claims are in condition for allowance. Even though the Office Action is final, Applicant believes this amendment should be entered because it places the claims in condition for allowance, or if the Examiner disagrees, places the case in better form for appeal. Reconsideration of all rejections and a notice of allowance are respectfully requested. Should there be any questions regarding this application, Examiner Yeagley is invited to contact the undersigned attorney at the phone number listed below.

9/10/01  
Date

Respectfully submitted,

  
Brennan G. Swain  
Reg. No. 43,175

JEFFER, MANGELS, BUTLER & MARMARO LLP  
Tenth Floor  
2121 Avenue of the Stars  
Los Angeles, CA 90067  
Tel: (310) 203-8080





VERSION WITH MARKINGS TO SHOW CHANGES MADE

The following claims have been amended:

6. (Twice Amended) The fender of claim 5 wherein said first and second non-zero acute angles are between about 1° and about 89°.

7. (Twice Amended) The fender of claim 5 wherein said first and second non-zero acute angles are between about 40° and about 50°.

12. (Twice Amended) The fender of claim 11 wherein said first and second non-zero acute angles are between about 1° and about 89°.

13. (Twice Amended) The fender of claim 11 wherein said first and second non-zero acute angles are between about 40° and about 50°.

27. (Amended) The fender of claim 1 wherein said clearance increasing portion, said inner wall and said top portion each have a bottom edge, and wherein said entire bottom edge of said clearance increasing portion, said entire bottom edge of said inner wall and said entire bottom edge of said top portion all lie in a common plane.

28. (Amended) A fender having a longitudinal midline, said fender comprising

- a) a light housing mounted to said fender offset from said midline,
- b) a top portion having opposed inner and outer edges, wherein said top portion is curved radially downwardly in a longitudinal direction
- c) a clearance increasing portion having a bottom edge, said clearance increasing portion depending downwardly from said inner edge of said top portion at a non-zero acute angle,
- d) an inner wall having a bottom edge, said inner wall depending downwardly from said clearance increasing portion at a non-zero acute angle, wherein said top portion and said inner wall are oriented substantially perpendicularly, and wherein said angle formed by said top portion and said

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clearance increasing portion, and the angle formed by said clearance increasing portion and said inner wall add up to approximately 90°, and

e) an outer wall having a bottom edge, said outer wall depending downwardly from said outer edge of said top portion,

wherein said entire bottom edge of said clearance increasing portion, said entire bottom edge of said inner wall, said entire bottom edge of said top portion and said entire bottom edge of said outer wall all lie in a common plane.